

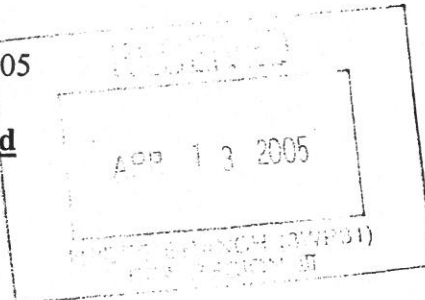
MANKO | GOLD | KATCHER | FOU LLP

AN ENVIRONMENTAL LAW PRACTICE

April 8, 2005

Via Certified Mail - Return Receipt Requested

Mr. Chuck Schadel (32P31)
U.S. Environmental Protection Agency
Water Protection Division
Office of Compliance and Enforcement
NPDES Branch
1650 Arch Street
Philadelphia, PA 19103



Re: Administrative Order Pursuant to Section 309 of the Clean Water Act and Request for Information Pursuant to Section 308 of the Clean Water Act Issued to Hovnanian Pennsylvania, Inc. by letter dated September 23, 2004

Dear Mr. Schadel:

Please be advised that this firm represents K. Hovnanian at Lower Moreland, L.L.C. ("KHLM") with respect to the above-referenced matter.

It is our understanding that the U.S. Environmental Protection Agency ("EPA") issued a "Findings of Violation and Order for Compliance" (hereinafter referred to as the "Administrative Order") and an information request pursuant to Section 308 of the Clean Water Act (the "Section 308 Request") to "Hovnanian Pennsylvania, Inc." by letter dated September 23, 2004. EPA then sent a follow-up letter from David B. McGuigan dated March 10, 2005,¹ which "requires Hovnanian to respond to the 308 Request within 20 days of receipt of this letter." EPA's March 10th letter also asserts that KHLM's prior response to the Administrative Order, timely submitted by Delmar Shelton, Land Development Supervisor for KHLM via cover letter October 19, 2004, "did not include certification that Item #29.a of the [Administrative Order] has been fully completed. Therefore Hovnanian has not yet fully

1. Please note that KHLM never received from EPA the March 10 letter, as it was sent to a former address. KHLM's current address is 1170 Wheeler Way, Suite 200, Langhorne, PA 19047. KHLM received, on March 28, a copy of the March 10 letter, which was sent by EPA to one of KHLM's outside counsels.

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Mr. Chuck Schadel (32P31)
April 8, 2005
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complied with the [Administrative Order]." In my telephone discussions with Nina Rivera, Esq. of your office, we agreed that a response to the March 10 letter would be due on April 8, 2005. Please accept this letter and the enclosed "Response to Section 308 Request" as a complete and timely response to EPA's letter of March 10.

With respect to the Administrative Order, I attach herewith for your convenience an unsigned copy of the text of Mr. Shelton's response, and note that a response to Item 29.a was, in fact, originally provided, along with the required certification. In conversations with Ms. Rivera, I was advised that EPA was specifically asking whether the tree protection areas were delineated and fenced, and whether trees which were damaged, if any, had been replaced and/or replanted. Consistent with the response previously provided, I am informed by KHLM that the tree protection fence was timely installed and/or repaired, and to their knowledge no trees needed to be replaced. Please let me know if you require any further information on this issue.

With respect to the response to the Section 308 Request, enclosed please find a document entitled "Responses to Section 308 Request" which provides, as requested, a separate response to each of the questions set forth in the Section 308 Request, as well as copies of the documents responsive to each question.

Please feel free to call me if you should have any questions or concerns regarding this letter or the enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "J. E. Rinde", with a large circular flourish underneath.

Jonathan E. Rinde
For MANKO, GOLD, KATCHER & FOX, LLP

JER/acr

Enclosure

cc: Nina Rivera, Esquire (w/enclosure)

RESPONSES TO SECTION 308 REQUEST

K. Hovnanian of Lower Moreland, L.L.C. ("KHLM") hereby responds to the request for information by the U.S. Environmental Protection Agency ("EPA") pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318, as set forth in EPA's letter dated September 23, 2004 (the "Section 308 Request"). All responses set forth below relate to the time period of January 2003 to present, unless a particular question or response specifies a different time period.

I. Response to the Section 308 Request.

Subject to Section II - General Qualifications and Objections to the Information Requested Pursuant to the Section 308 Request, the following responds to the Section 308 Request.

1. Provide the legal name of Hovnanian Pennsylvania, Inc. and any all related business entities doing business in Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia or West Virginia. Specify the relationship of Hovnanian Pennsylvania, Inc. to each business. In particular, describe the relationship between Hovnanian Pennsylvania Inc., and K Hovnanian Companies and Hovnanian Enterprises, Inc.

In discussions between Nina Rivera, Esq. of EPA and David Garrison, Esq., representing KHLM, EPA clarified that the scope of this question requires only the legal name and address of KHLM, and the identification of its corporate parent. This information is set forth below:

K. Hovnanian of Lower Makefield, LLC
1170 Wheeler Way
Suite 200
Langhorne, PA 19047

The identification of KHLM's corporate parent/member is:

K. Hovnanian Companies of Pennsylvania, Inc.
1170 Wheeler Way
Suite 200
Langhorne, PA 19047

In addition to outside counsel, Elizabeth Hurtubise, Esquire and Steve Dahl, Esquire were consulted in the preparation of this response. Only privileged documents were consulted, examined or referred to in the preparation of this response.

2. Name the corporate officers of Hovnanian Pennsylvania, Inc. and of any parent corporation, for the time period of January 2003 to present.

In discussions between Nina Rivera, Esq. of EPA and David Garrison, Esq., representing KHLM, EPA clarified the scope of this question to require the corporate officers of KHLM, and of its corporate parent/member. Those corporate officers are listed as follows:

Officers of K. Hovnanian of Lower Moreland, LLC

Ara K. Hovnanian, Vice Chairman
Peter S. Reinhart, Senior Vice President, General Counsel and Secretary
J. Larry Sorsby, Executive Vice President and Chief Financial Officer
Paul W. Buchanan, Senior Vice President and Controller
Kevin C. Hake, Vice President - Finance and Treasurer
Stephen M. Dahl, Vice President and Chief Legal Counsel
Joseph Riggs, Group President
Barry Edelman, Division President

Officers of K. Hovnanian Companies of Pennsylvania, Inc.

Former Officers

Kevoork Hovnanian, Chairman/CEO
John Schimpf, Executive Vice President
Timothy Mason, Senior Vice President and Administrative Secretary
Merle Huseeth, Senior Vice President
Richard Sudall, Senior Vice President
Michael Liptak, Vice President

Current Officers

Ara K. Hovnanian, Vice-Chairman
J. Larry Sorsby, Executive Vice President and Chief Financial Officer
Peter S. Reinhart, Senior Vice President, General Counsel and Secretary
Paul W. Buchanan, Senior Vice President and Controller
Kevin C. Hake, Vice President - Finance and Treasurer
Joseph Riggs, Group President
Stephen M. Dahl, Vice President and Chief Legal Counsel
Barry Edelman, Division President
George DeMartino, Vice President
Elizabeth Hurtubise, Assistant Secretary

In addition to outside counsel, Elizabeth Hurtubise, Esq. and Steve Dahl, Esq. were consulted in the preparation of this response. In addition to privileged communications, a resolution of K. Hovnanian Companies of Pennsylvania, Inc. was consulted, examined or referred to in the preparation of this response. A true copy of the resolution is attached hereto at Exhibit "2" and marked as EHV - 221.

3. *Provide a true copy of any Notice of Intent to [sic] submitted by Hovnanian Pennsylvania, Inc. or any related business entity to the Pennsylvania Department of Environmental Protection (DEP) or to the Montgomery County Conservation District, at any point from January 2000 to the present, to seek authorization under General Permit for Discharges of Stormwater Associated with Construction Activities (PAG-2) for stormwater discharges from the Estates and [sic] Huntingdon Valley Site.*

Enclosed please find as Exhibit "3" attached hereto a true copy of the submission of the "Notice of Intent (NOI) for Coverage under the Pennsylvania General Permit for Discharges of Stormwater Associated with Construction Activities (PAG-2)" for the project known as "The Estates at Huntingdon Valley" signed August 24, 2000, and transmitted to the Montgomery County Conservation District by letter dated October 3, 2000, and supplemented by transmittals on October 11, 2000, March 3, 2001, April 4, 2002, April 30, 2002, May 14, 2002, June 14, 2002, July 12, 2002, a copy of each which has also been included as part of Exhibit "3."

In addition to outside counsel, Rick Buchholz was consulted in the preparation of this response. The documents consulted, examined or referred to in the preparation of this response have been copied and are attached hereto as Exhibit "3" and are marked as EHV - 1 through 123, inclusive.

4. *Provide a true copy, with all attachments, of the PAG-2 Permit No. PAR10T682, issued to Hovnanian Pennsylvania, Inc. or any related business entity by the Pennsylvania Department of Environmental Protection, to authorize stormwater discharges from the Estates and [sic] Huntingdon Valley site, and which applied to the site from January 2003 to the present.*

Enclosed please find as Exhibit "4" attached hereto a true copy of PAG-2 Permit No. PAR10T682 issued to Hovnanian Pennsylvania, Inc. for the Estates of Huntingdon Valley by the Montgomery County Conservation District by transmittal letter dated July 29, 2002, and the revisions to PAG-2 Permit No. PAR10T682 issued by the Montgomery County Conservation District by transmittal letter dated April 23, 2003.

In addition to outside counsel, Rick Buchholz was consulted in the preparation of this response. The documents consulted, examined or referred to in the preparation of this response have been copied and are attached hereto as Exhibit "4" and are marked as EHV - 124 through 140, inclusive.

5. *Provide a true copy, with all attachments including any narrative and sheets, of the Erosion & Sedimentation Control Plan prepared for the Estates and [sic] Huntingdon Valley site, as required by PAG-2 Permit No. PAR10T682, and which was in effect on January 2003 to the present. If the Plan has been revised since January 2003, also provide the revised Plan and specify the applicability of the revisions.*

Enclosed please find as Exhibit "5" attached hereto a true copy of the Erosion & Sedimentation Control Plan prepared for the Estates at Huntingdon Valley, as set forth in the report entitled "The Estates at Huntingdon Valley - Erosion and Sediment Pollution Control

Narrative & Computations" prepared by Boucher & James, Inc. and dated April 30, 2002, and as revised by submissions to the Montgomery County Conservation District through transmittal by letters dated May 14, 2002, June 13, 2002, June 14, 2002 and July 12, 2002. Following the approval of the Erosion and Sedimentation Control Plan by the Montgomery County Conservation District via letter dated July 29, 2002 (a true copy of which is attached hereto with the documents contained in Exhibit "4"), Boucher and James sent the Montgomery County Conservation District a request for a revision of the Erosion and Sedimentation Control Plan, as set forth in its transmittal dated April 10, 2003. The Montgomery County Conservation District approved the request for a revision by transmittal letter dated April 23, 2003. A true copy of the request for a revision, and approval thereof, are also attached hereto with the documents contained in Exhibit "5" and are marked as EHV - 141 through 219, inclusive.

Also attached hereto with the documents contained in Exhibit "5" is a true copy of Sheets 24 through 29 of 57, inclusive, of the Erosion and Sedimentation Control Plan prepared by Boucher and James, Inc. for the Estates at Huntingdon Valley, last revised September 6, 2002. These plan sheets have been marked as EHV - 221 through 227, inclusive. Please note that this plan set represents the final approval plans, which were revised (as noted on the plan sheets) pursuant to successive comments made by various regulatory agencies. No interim plan sheets have been provided with this response, and they may not currently exist, as interim plans are physically changed with each round of comments to produce the final, approved plans. To conserve filing space, paper copies of the interim plans which are superseded with new plans are typically discarded.

In addition to counsel, Rick Buchholz was consulted in the preparation of this response. The documents consulted, examined or referred to in the preparation of this response have been copied and are attached hereto as Exhibits "4" and "5."

II. General Qualifications and Objections to the Information Requested Pursuant to the Section 308 Request.

1. KHLM objects to the Section 308 Request in that the questions set forth therein are overbroad, unreasonable, seek to obtain information not related to any objective of the Clean Water Act's permitting program, and beyond the scope of EPA's authority pursuant to Section 308.

2. KHLM objects to the Section 308 Request as it purports to require KHLM to supplement these responses in the future if, for example, newly developed information becomes known to KHLM or if these responses, or any portion thereof, becomes false, incomplete or misrepresentative of the facts. Notwithstanding this objection, KHLM will endeavor to notify EPA if it determines, on the basis on information discovered after the submittal of these response, that any of these responses are incorrect.

3. KHLM objects to the Section 308 Request in that it seeks to reveal information that is protected from disclosure by the attorney-work product privilege, the privilege associated with attorney-client communications, and/or other applicable privileges.

4. KHLM objects to the Section 308 Request as it purports to require KHLM to submit copies of documents to EPA that contain information that is responsive to a question, even though such documents may provide no further information regarding the question other than the answer or other documents provided. Without limiting the generality of the foregoing, KHLM objects to any purported requirement that it provide copies of all documents in existence that identify one or several corporate officers of KHLM, or its parent/member corporation.

5. KHLM objects to the Section 308 Request to the extent that it uses terms that are undefined and can be interpreted in several ways. In each such instance, KHLM has attempted to give the undefined term a common meaning given the context in which the term is used.

6. KHLM reserves the right to assert additional objections.

Apr. 8. 2005 10:48AM

CERTIFICATION

I certify that the responses contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.


Delmar Shelton